

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE CONSENT ORDER**

IN THE MATTER OF:

WASHINGTON COUNTY

**ADMINISTRATIVE
CONSENT ORDER
NO. 2011-WW- 16**

**TO: Jim Miksch, President
Washington County Board of Supervisors
PO Box 889
Washington, IA 52353**

I. SUMMARY

This administrative consent order (Order) is entered into between Washington County and the Iowa Department of Natural Resources (DNR) for the purpose of establishing a schedule to achieve compliance with applicable effluent and water quality standards for wastewater discharges generated in the unincorporated areas of Washington County known as Richmond and Rubio.

The parties hereby agree that Washington County shall undertake the schedule of compliance set forth in this Order to construct wastewater facilities to serve Richmond and Rubio in order to achieve compliance with applicable requirements.

Any questions regarding this Order should be directed to:

Relating to technical requirements:

Jim Sievers
IDNR Field Office #6
1023 West Madison Street
Washington, IA 52353
Ph: 319-653-2135

Relating to legal requirements:

Jon Tack
Iowa Department of Natural Resources
Henry A. Wallace Building
Des Moines, IA 50319
Ph: 515-281-8889

II. JURISDICTION

This Order is issued pursuant to Iowa Code section 455B.175(1) which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part 1, and the rules promulgated or permits issued pursuant thereto; and Iowa Code section 455B.109 and chapter 567 Iowa Administrative Code (IAC) 10 which authorize the Director to assess administrative penalties.

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III. STATEMENT OF FACTS

1. The unincorporated communities of Richmond and Rubio in Washington County do not currently have wastewater collection systems that serve their residents or businesses.

2. On September 26, 2001, the DNR investigated a complaint of sewage discharge from an on-site residential treatment system to the surface of the ground in Rubio. On October 19, 2001, the DNR sent a letter to the Washington County Board of Supervisors notifying them of the need to eliminate illegal discharges of sewage from on-site treatment systems in Rubio.

3. On October 17, 2001, the Department collected wastewater samples from two locations in Richmond which contained partially treated human sewage. On November 13, 2001, the DNR sent a letter to the Washington County Board of Supervisors notifying them of the need to eliminate illegal discharges of sewage from on-site treatment systems in Richmond.

4. On March 24, 2006, the DNR and Washington County, along with its consulting engineers and officials from Regional Utility Service Systems, conducted a project initiation meeting via telephone conference call for wastewater treatment improvements in Richmond and Rubio. To date, the Washington County has not solicited bids for either project.

5. The DNR and Washington County have continued to consult with residents of Rubio and Richmond and with the Regional Utility Service Systems to determine the most appropriate method to address the illegal discharges from private sewage disposal systems in Rubio and Richmond. The DNR and Washington County agree that action must be taken to eliminate these discharges.

IV. CONCLUSIONS OF LAW

The DNR and Washington County agree that the following Conclusions of Law are applicable to this matter:

1. Pursuant to Iowa Code section 455B.172(1), the DNR is the agency of the state to prevent, abate, or control water pollution and to conduct the public water supply program.

2. Pursuant to Iowa Code section 455B.172(4), each county board of health shall regulate the private water supply and private sewage disposal facilities located within the county board's jurisdiction, including the enforcement of standards adopted pursuant to Iowa Code chapter 455B, Division III, Part 1. Pursuant to 455B.172(5), the DNR maintains concurrent authority to enforce state standards for private sewage disposal

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facilities with a county and shall exercise DNR authority if the county board of health fails to fulfill board responsibilities pursuant to Iowa Code section 455.172.

3. Pursuant to Iowa Code section 455B.186, a pollutant shall not be disposed of by dumping, depositing, or discharging such pollutant into any water of the state, except that this section shall not be construed to prohibit the discharge of adequately treated sewage, industrial waste, or other waste pursuant to a permit issued by the Director.

4. Administrative Code section 567 IAC 69.1(3)(b) prohibits the discharge of wastewater from private sewage disposal systems to any ditch, stream, pond, lake, natural or artificial waterway, county drain tile, surface water drain tile, or land drain tile, to the ground water, or to the surface of the ground. This rule requires that existing discharges to any of the above-listed locations shall be eliminated by the construction of a system in compliance with the requirements of the chapter.

V. ORDER

The DNR orders, and Washington County hereby agrees to, the following compliance schedule:

1. Washington County, in conjunction with Regional Utility Service Systems, shall let bids for sewer system projects in Rubio and Richmond by March 1, 2013.
2. Construction of the sewer system projects in Rubio and Richmond shall be completed by June 1, 2014.

VI. PENALTY

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission (Commission) to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties at chapter 567 IAC 10. The DNR has determined that the most effective and efficient means of addressing the above-cited violations, at this time, is the issuance of an Order with no penalty.

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VII. WAIVER OF APPEAL RIGHTS

Iowa Code section 455B.175(1) and 561 IAC 7.4(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Commission. This Order is entered into knowingly by and with the consent of Washington County. By signature to this Order, all rights to appeal this Order are waived.

VIII. NONCOMPLIANCE

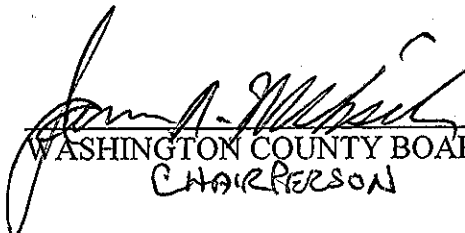
Failure to comply with this Order may result in the imposition of administrative penalties or referral to the Attorney General to obtain appropriate relief pursuant to Iowa Code section 455B.191. Compliance with Division V of this Order constitutes full satisfaction of all requirements pertaining to the violations described in Divisions III and IV of this Order.

The DNR reserves the right to bring enforcement action or to request that the Attorney General initiate legal action to address other violations not described in this Order but which may arise from the facts summarized in Division III of this Order.



ROGER LANDE, DIRECTOR
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 6th day of
November, 2011



WASHINGTON COUNTY BOARD OF SUPERVISORS
CHAIRPERSON

Dated this 1st day of
NOVEMBER, 2011

Tracking information



Date: 11/17/2011

Colleen Zeliadt:

The following is in response to your 11/17/2011 request for delivery information on your Certified Mail(TM) item number 7108 2133 3938 7305 4243. The delivery record shows that this item was delivered on 11/14/2011 at 08:50 AM in WASHINGTON, IA 52353. The scanned image of the recipient information is provided below.

Signature of Recipient:

A handwritten signature in cursive script that reads "Bill P. Harrison".

Address of Recipient:

A handwritten address in cursive script that reads "Box 289".

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,

United States Postal Service